

DRAFT

**Board for Professional Engineers and Land Surveyors
Board Meeting Minutes
January 20, 2006**

**KVIE Public Television
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Sacramento, California, 95833
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Friday, January 20, 2006, beginning at 9:00 a.m.

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Board Members Present: Cindy Tuttle (President), Dale Wilson (Vice President), Gregg Brandow, Arthur Duffy, James Foley, Robert Jones, Richard Lyons, and Millicent Safran

Board Members Absent: Edward Yu

Board Staff Present: Cindi Christenson (Executive Officer), Cindy Fernandez (Executive Analyst), Gary Duke (Legal Counsel), Linda Schneider (Liaison Deputy Attorney General), Nancy Eissler (Enforcement Program Manager), Debbie Thompson (Budget Analyst), and Joanne Arnold (Assistant Executive Officer)

Public Present: See Attached

1. Roll Call to Establish a Quorum

The meeting was called to order by President Tuttle at 9:05 a.m. Roll call was taken, and a quorum was established.

2. Public Comment

Mr. Bockmiller, PECG, asked the Board if it would be possible to have the mid-state examination site again; he stated that CLSA and CELSOC also support this. Mr. Bockmiller understands the budget issues but thinks not having that site affects the pass rates. Mr. Bockmiller requested that the State Specific PLS examinations be separated into specific areas and candidates be allowed to pass in parts.

President Tuttle directed staff to look into both issues and bring information to future Board meetings.

Mr. Bradford, Bureau of Reclamation, is a surveyor registered in 5 states, California not being one of them. Mr. Bradford has been a surveyor for 24 years and has recently taken the California PLS examination. Mr. Bradford stated that he does not study before the exam because you never know what is going to be on the examination. He has heard nightmares about the California examination. He took it and thought it was quite easy, until he received his score. Mr. Bradford stated that he believes if the correct numerical answer is given, it shouldn't matter if units of measure are not given and that the candidate should at least get partial credit. Mr. Bradford stated that Washington had the same problem and it was killing the profession, so Washington went to all Multiple Choice examination which he supports.

3. Approval of Delinquent Reinstatements (Possible Action)

MOTION: Mr. Foley/Ms. Safran moved to approve the Delinquent Reinstatements as follows:

MECHANICAL

1. Francis Lloyd St. John

Reinstate applicant's mechanical license once he/she has taken and passed the Board's Laws and Regulations Examination.

2. James W. West

Reinstate applicant's mechanical license, having passed the Board's Laws and Regulations Examination.

VOTE: 8-0, motion carried.

4. Comity and Temporary Authorization Applications (Possible Action)

MOTION: Vice President Wilson/Mr. Foley moved to approve the Amended Handout Comity List.

VOTE: 8-0, motion carried.

MOTION: Mr. Duffy/Dr. Brandow moved to extend the Temporary Civil Authorization for Richard Wayne Mc Coy.

VOTE: 7-1, motion carried. Ms. Safran, nay.

MOTION: Dr. Brandow/Mr. Jones moved to approve Temporary Civil Authorization with restrictions to exclude Seismic, Structural, and Geotechnical work for Ram Singal.

VOTE: 6-2, motion carried. Ms. Safran and Mr. Foley, nay.

7. Legislative Proposals (Possible Action)

a. Non-Title Act Related Items from SB 246 (including pass through of examination fees)

Mr. Duffy reported on items contained in the agenda and stated that the reason for placing this item on the agenda is to look at them and discuss them at this time.

Regarding amending Business and Professions Code section 6716 to require only a simple majority vote, rather than a super majority vote, Mr. Foley stated that he thinks it would keep pressure on the Governor to fill vacant positions if more than simple majority is needed for the Board to take action. Mr. Duffy stated that he thinks it should be more than a simple majority so that the Board members would strive for consensus. Ms. Safran stated that she feels that the professional societies and consumer groups should be putting pressure on Governor to make appointments. Ms. Eissler and Mr. Duke stated that this Board is unique in requiring a super majority.

Ms. Thomson, representing CELSOC, stated that she is charged by CELSOC with getting SB 246 through and resolving the Title Act issue.

b. CLSA Proposal Regarding Definition of Land Surveying and Exemptions for Landscape and Geologic Purposes

Mr. Butcher representing CLSA, provided the Board with handouts regarding CLSA's proposals on Business and Professions Code Sections 8726, 8727, and 8771.

Mr. Butcher explained that Business and Professions Code Section 8726 defines the practice of land surveying and specifies various activities that constitute the practice of land surveying. CLSA proposes to update and modernize the practice of land surveying by amending two subdivisions of, and adding a subdivision to, Section 8726.

Mr. Butcher explained that Business and Professions Code Section 8727 exempts certain activities from the practice of land surveying. Specifically, this section exempts geological and landscaping surveys from the practice of land surveying. CLSA's proposal amends Section 8727 to modify the terms "geological" and "landscaping" by the professions actually licensed to perform these activities pursuant to their individual licensing statutes.

Mr. Butcher explained that Business and Professions Code Section 8771 establishes the requirements for the sufficiency and location of a survey monument. CLSA's proposal amends subdivision (b) of Section 8771 to add the term "horizontal and/or vertical" to modify the term survey control.

Ms. Thomson stated that she would like CELSOC to review these proposals.

c. SEAOC Proposal Regarding Construction Review

Mr. Duke stated that he has not completed his research at this time and would like to request that the SE and CE TACs have a meeting within the next few weeks. Will look into holding a joint TAC meeting in conjunction with the next Board meeting.

d. Amendments to Business and Professions Code sections 6738 and 8729

Mr. Duffy requested that Ms. Eissler report on this item. Ms. Eissler reviewed the information provided in the agenda packet. She explained that Sections 6738 and 8729, which address engineering and surveying businesses, are not well-worded which leads to much confusion on the part of licensees, consumers, attorneys, and other members of the public. She advised that staff believes revisions to the wording in several subdivisions should be made to clarify the existing requirements; these revisions would not change the existing requirements but would clarify them.

Mr. Foley questioned why licensed contractors or other professions were not included as people whose names could be used in the name of an engineering business. Ms. Eissler indicated that she did not know the legislative history as to why licensed contractors were not included and that the Board might want to consider adding that group. Ms. Eissler explained that Board staff does not believe that individuals who are not licensed in a profession related to engineering or surveying should be allowed to use their names in the name of an engineering or surveying business because this misleads consumers into believing that person is licensed to practice engineering or surveying.

Ms. Eissler also explained that staff needs input from the Board regarding the provisions relating to out-of-state businesses.

After further discussion, Mr. Duffy recommended that the Board direct staff to separate the proposed revisions into those which are simply for clarification and those which staff needs more input from the Board, such as the issues of business names and out-of-state businesses. Mr. Duffy indicated that staff would then provide this information at the March 2006 Board meeting, at which time the Board could decide which revisions to

move forward with and which ones to refer to the TACs or discuss further at the Board level. President Tuttle directed staff to follow Mr. Duffy's recommendations.

5. Release of PLS Multiple Choice & Essay Questions (Possible Action)

Ms. Christenson reported that we are working with PMES on this issue.

Ms. Gensberg and Dr. Bradley of PMES were present at the Board meeting to discuss this issue. Ms. Gensberg and Dr. Bradley have been working with the Board for Professional Engineers and Land Surveyors since 1989.

Some of the concerns that Ms. Gensberg and Dr. Bradley have regarding the release of the PLS examination is compromising the security of the examination. They said to think very carefully about how much to release. Dr. Bradley stated that just releasing the examination is not releasing the "Process" and all that is involved, and he believes that candidates need to understand the whole process and all that is involved. Ms. Gensberg stated that when you release the examination, you release the ability to have continuity. Some of the options that Ms. Gensberg and Dr. Bradley recommended were to develop samples to put in a brochure, do a general outline, and to have a summary of common errors.

Ms. Thomson stated that she has not heard a good problem definition and would like to see it taken one step further. She will be getting comments from CELSOC.

Mr. Duffy stated that he would like to try something different because nothing else has worked so far. He would like to go forward with some of PMES's recommendations, i.e., focus groups, training groups, and/or summary of common errors/mistakes.

President Tuttle agrees with PMES regarding releasing methodology of "Process" along with sample questions.

MOTION: Mr. Foley/Ms. Safran moved to release the April 2005 examination with explanation, to supply a list of common errors, and to hold a forum to get feedback from candidates in regards to what their concerns are.

VOTE: 8-0, motion carried.

15. President's Report

President Tuttle read the resignation letter received from Mr. Welch. Effective December 21, 2005, Mr. Welch has resigned from the Board.

16. Executive Officer's Report

1. Administration Report

- a. Executive summary report**
No additional report given.

2. Personnel

- a. New Hires**
No report given.

- b. Vacancies**
No report given.

3. Enforcement/Examination/Licensing

- a. College Outreach**
No report given.

- b. Report on Enforcement Activities**
No report given.

- c. Report on Examination Activities**
Ms. Christenson reported that the results from the examination have been received.

4. Publications/Website

- a. Website Activity Statistics**
No additional report was given.

5. Other

- a. DCA update**
Ms. Christenson reported that Nancy Hall from DCA has accepted another job with the Governor's office in San Francisco.

Mr. Jones left at 2:30 p.m.

6. Use of Multiple Choice Problems on the PLS Examination (Possible Action)

Ms. Christenson reported on the information in the agenda.

President Tuttle recommended that this item be deferred until the results from Item #5 are looked at.

MOTION: Mr. Duffy/Ms. Safran moved to table this item until the results from Item #5 are looked into.

VOTE: 7-0, motion carried.

8. Approval of Special Civil Test Plans (Possible Action)

Ms. Christenson reported on this item.

MOTION: Dr. Brandow/Mr. Duffy moved to approve the new Special Civil test plans.

VOTE: 7-0, motion carried.

9. Elimination of Pocket ID Cards (Possible Action)

Ms. Christenson reported that other states have done away with the Pocket ID cards because of the internet and the availability of the information. Ms. Christenson questions whether they are still necessary in this day and age.

Mr. Lyons has a concern that the licensees may be upset with an increase of fees and a decrease of services.

MOTION: Mr. Lyons/Ms. Safran directed staff to look into the following option and bring back information to the March 2006 Board meeting.

- Provide an option to licensees on their renewal notice to obtain a plastic ID card. As not all will want the plastic cards, the number of ID cards sent out each year by Board staff would reduce as well as the Board's yearly expenses. This option would require a few IT changes be made on renewal notices that are automatically sent out by DCA. The DCA renewal notice would need to be changed to include a box for the licensee to request a plastic ID card as well as to add the amount paid for the licensee's receipt in the instance he/she needs it for reimbursement. Currently, DCA's paper license ID doesn't include the amount paid so the Board includes it with letter that provides the plastic ID card. Employers who reimburse for licensure now request a receipt because the fee has changed three times in the last year.

VOTE: 7-0, motion carried.

10. Administrative

a. Fund Condition (Possible Action)

Ms. Thompson reported on changes included in the Board's fund condition dated January 5, 2006:

- Renewal revenue projection remains at \$5,705,000 and has not changed.

- Application revenue projection increased from \$3,521,404 to \$3,732,330.
- Actual reimbursements this FY increased from \$20,568 to \$27,908.

Total revenue through November 30, 2005 was \$1,080,154 higher than that received during the same time last FY. The increase is attributed to the change to biennial renewals and the renewal fee increase from \$100 to \$125.

b. Fiscal Year 2005/06 Budget (Possible Action)

Ms. Thompson reported that the Board currently projects this FY expenses to be \$7,435,426 slightly up from September's projections. Currently, the Board projects to have a \$319,266 savings after expenditures for this FY.

c. Fiscal Year 2006-07 Budget Change Proposals (BCPs) (Possible Action)

The Senate and Assembly budget hearings for FY 2006-07 BCPs will take place during the months of March and April 2006.

d. Fiscal Year 2007/08 Budget (Possible Action)

Ms. Thompson outlined two issues identified by Board staff for possible BCP funding in FY 2007/08:

- 1) Subject Matter Expert (SME) Hourly Rate Increase – The Board's SME's are currently paid \$22.21 per hour. This rate hasn't increased in over 10 years. A salary survey conducted by the Professional Engineers in California Government and the State Department of Personnel Administration shows the bottom line entry level pay for an engineer is approximately \$31 per hour.

MOTION: Ms. Safran/Mr. Duffy moved to have Board staff pursue the feasibility of an increase in the hourly rate the Board pays its SMEs and report back at the next Board meeting.

VOTE: 7-0, motion carried.

- 2) Cashier's Office Position - A significant increase in the number of renewals processed by the Board's two cashiers has occurred. The reasons for the increase include: 1) the increase in the overall licensing population that now renew; 2) the workload increase to process renewals every two years instead of every four years; 3) no backup assistance is available now to cashiers since the required cut of 5.5 clerical staff resulting from hire freeze.

MOTION: Ms. Safran/Mr. Duffy moved to have Board staff pursue the feasibility of an increase in staffing for the cashier's office and report back at the next Board meeting.

VOTE: 7-0, motion carried.

e. Publication Review

The Handbook on Laws and Rules publication is now being updated by the Board's website analyst. The Guide for Local Officials will be updated beginning in March 2006, and the Enforcement Bulletin in April 2006.

Mr. Foley asked if, by law, we have to publish and mail out the bulletin or could we simply notify licensees that the bulletin is on website. Ms. Eissler advised that we are not required by law to publish and mail a bulletin; however, many licensees prefer to receive a hard copy rather than print it from the website and part of the fee for license renewals includes the cost of a hard copy bulletin plus postage for mailing. President Tuttle pointed out that there are still some individuals who are not computer literate and/or do not have a computer.

11. Enforcement (If Necessary)

Ms. Eissler reported that the Enforcement Unit has already closed quite a few complaint cases for the month.

12. Legislative

a. Discussion of Legislation for 2006, including but not limited to SB 228 (Possible Action)

Ms. Arnold reported that SB 246 is the only Bill that we are following right now. Title Act Conversion is still going through the process, trying to resolve this issue. Ms. Arnold reported that Mr. Gage has said that SB 246 probably won't be heard until June 2006.

b. Regulation Status Report

Ms. Christenson reported on information contained in the agenda. She stated that she will bring information regarding the 5-year Credit for ABET Master Degree to the next Board meeting.

**13. Technical Advisory Committee Reports
(No Committee Meetings were held.)**

a. Board Assignments to TACs (Possible Action)
No assignments.

- b. Appointment of TAC Members (Possible Action)**
Ms. Christenson will be checking into the need for more TAC members for the different TACs.
- 14. Liaison Reports (Possible Action)**
 - a. ABET**
No report given.
 - b. NCEES**
No report given.
 - c. Technical and Professional Societies**
No report given.
- 17. Approval of Board Travel (Possible Action)**
No Board travel.
- 18. Other Items Not Requiring Board Action**
Date of Next Board Meeting: March 16 & 17, 2006, San Diego, California
Ms. Eissler reported that there may be a Petition Hearing at the March 2006 Board meeting.
- 19. Closed Session – Personnel Matters, Examination Procedures and Results, Administrative Adjudication, and Pending Litigation (As Needed) [Pursuant to Government Code sections 11126(a) and (b), 11126(c)(1), 11126(c)(3), and 11126 (e)(1)]**
 - a. Michael William Foster v. Board for Professional Engineers and Land Surveyors, El Dorado Superior Court Case No. PC 20030492**
 - b. Lawrence B. Karp v. Board for Professional Engineers and Land Surveyors, Court of Appeal First Appellate District, Division 3, Case No. A109241, (San Francisco Superior Court Case No. 402996)**
 - c. Michael Carlos Laroue v. Board for Professional Engineers and Land Surveyors, Los Angeles Superior Court**
- 20. Open Session to Announce the Results of Closed Session**
Ms. Christenson reported that the Board discussed pending litigation as noticed, specifically Michael William Foster v. Board for Professional Engineers and Land Surveyors, El Dorado Superior Court Case No. PC 20030492; Lawrence B. Karp v. Board for Professional Engineers and Land Surveyors, Court of Appeal First Appellate District, Division 3, Case No. A109241, (San Francisco Superior Court Case No. 402996); and Michael Carlos Laroue v. Board for Professional Engineers and Land Surveyors, Los Angeles Superior Court.

Ms. Christenson reported that the Board approved the passing scores for the October 2005 examinations:

- EIT Pass/Fail Only
- LSIT Pass/Fail Only
- Agricultural Pass/Fail Only
- Chemical Pass/Fail Only
- Control System Pass/Fail Only
- Electrical Pass/Fail Only
- Fire Protection Pass/Fail Only
- Industrial Pass/Fail Only
- Mechanical Pass/Fail Only
- Metallurgical Pass/Fail Only
- Nuclear Pass/Fail Only
- Petroleum Pass/Fail Only
- Traffic score of 69 out of 112
- Civil 8-hour Pass/Fail Only
- Seismic Principles score of 164 out of 295
- Engineering Surveying score of 185 out of 300
- Structural National Pass/Fail Only
- Structural (State Specific) score of 178 out of 400
- Geotechnical score of 408 out of 900

Ms. Christenson reported that the Board adopted the Proposed Decisions with technical corrections regarding Michael William Foster and Richard Thomas Pretzinger, Jr., and adopted the Proposed Decisions regarding Danny O. Graham and Thomas Mix Terwilliger, Jr., and denied the Petition for Reconsideration of Michael Carlos Laroue.

21. Approval of Consent Items (Possible Action)

(These items are before the Board for consent and will be approved with a single motion following the completion of Closed Session. Any item that a Board member wishes to discuss will be removed from the consent items and considered separately.)

- a. **Approval of the Minutes of the November 17 & 18, 2005, Board Meeting**
- b. **Approval of Candidates for Certification/Licensure (Based on Examination Results, Including Successful Appeals, Adopted in Closed Session)**

MOTION: Mr. Foley/Mr. Lyons moved to approve the consent calendar.

VOTE: 7-0, motion carried.

22. Adjourn

The Board adjourned at 3:30 p.m.

PUBLIC PRESENT

Jeff Cours, CPIL
Lyn T. Bockmiller, PECG
Bob Hart, CLSA
Lee Adler, SEAOC
George Bradford, Bureau of Reclamation
Mike Butcher, CLSA, Legislative Committee Chair
Ram Singal, Hirani Engineering
Sally Gensberg, PMES
Raymond Bradley, PMES
Kathleen O'Malley, CELSOC
Eugenie Thomson, CELSOC